

Remarks

Claims 1-10 and 32 are pending in this Application. By this Amendment, claims 1, 6, and 32 have been amended, and claims 33 - 35 have been added. No claims have been cancelled. As a result, claims 1-10, 32 - 35 are at issue in this Application.

CLAIM REJECTIONS - 35 U.S.C. §112

On page four (4) of the Office Action, Claims 1-10 and 32 were rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. To overcome this rejection, Claims 1, 6, and 32 have been amended to recite that the top rail, base and two stiles are "collectively connected at their extremities." Additionally, Claim 32 has been amended so as to change the "or" on line 11 to "and" to overcome the Examiner's rejection. Thus, Applicant respectfully submits that the all of the claims, as amended, satisfy the requirements of 35 U.S.C. §112, and that the rejection should be properly withdrawn.

CLAIM REJECTIONS - 35 U.S.C. §102

On pages four and five (4-5) of the Office Action, claims 1-10 and 32 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,553,353 to Simpson ("Simpson"). Applicant respectfully traverses this rejection.

The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention. *Ex Parte Levy*, 1990 Pat. App. LEXIS 18, *3, 17 U.S.P.Q. 2d 1461 (BPAI 1990) ("it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference."); *In re Lange*, 209 U.S.P.Q. 288 (CCPA 1981) (in order to anticipate, the reference must describe or disclose all of the limitations of the claims). It is well-settled law that the burden of establishing a prima facie case of anticipation resides with the Patent & Trademark Office. *Ex Parte Skinner*, 1986 Pat. App. LEXIS 4, 2 U.S.P.Q. 2d 1788 (BPAI 1986).

Independent claim 1 is directed to a tilt-latch for a sash window disposed within opposed guide rails on a master frame and requires, among other things, “a housing having an outward end opening,” “a latch bolt disposed within the housing, the latch bolt having a nose, the latch bolt having an extended position and a retracted position,” and “wherein only a portion of the nose extends past the outward end opening when the latch bolt is in the extended position.”

Simpson is directed to a latch mechanism 40 adapted to be operatively installed internally of the sash frame 20 of a sash window to permit pivotal movement of the window sash 22. The latch mechanism 40 comprises a housing 42, a latching bolt 44, and a control member or button 48. The housing 42 includes a plate or top wall 52 having a pair of cylindrical bosses 66, 66', one at each end 68 thereof. Each boss 66, 66' has a countersunk bore 70 entirely therethrough. The latching bolt 44 is an integral, plate-like or planar member having an enlarged end 81 *provided with an outer free extremity 82 which is canted or angled.* End 81 has an ovate slot 83 therethrough. When bolt 44 is assembled to housing 42, cylindrical boss formation 66 is received in the ovate slot 83. The bolt 44 is slid relative to the housing 42 in operation of the mechanism 40. The end 81 protrudes outwardly of the end 52 of the housing 42 in the assembly mode. Suitable threaded fasteners will be engaged in the aligned openings and bores to secure housing 42 against the undersurface 91 of the header 28 of the sash 22.

Applicant submits that the Examiner has not established the prima facie case of anticipation because Simpson does not disclose each and every element of independent claim 1. Specifically, independent claim 1 requires, among other things, that “only a portion of the nose extends past the outward end opening when the latch bolt is in the extended position.” Simpson does not disclose or suggest this element. In support of this rejection, the Examiner construed the enlarged end 81 as the “nose” of the latch bolt 44. Applicant submits that this construction is erroneous since: (i) Simpson has positively identified the outer free extremity 82 as the structure on the latch bolt 44 corresponding to the nose; and (ii) such a construction is contrary to the definition of “nose” as defined by Applicant.

Simpson specifically describes the outer free extremity 82 as “canted or angled.” (col. 3, lines 49-50). Simpson separately defines the enlarged end 81 of the latch bolt 44 as having “an

ovate slot 83 therethrough.” (col. 5, lines 50-51). Furthermore, Simpson states that “[e]xtending inwardly from end 81 is an elongate, medial body segment 84 which is narrower than end 81.” (col. 5, lines 52-53). Thus, looking at FIG. 4 in Simpson, it is clear that the enlarged end 81 extends between the medial body 84 and the outer free extremity 82, comprising the entire enlarged portion of the latch bolt 44 surrounding the slot 83. Meanwhile, the outer free extremity 82 comprises only that portion of the latch bolt 44 which is “canted or angled.”

Thus, it is respectfully submitted that the Examiner’s construction of “nose” to include the entire enlarged end 81 rather than just the “canted or angled” outer free extremity 82 is overly broad. The proper construction of “nose” should be limited to the portion of the latch bolt 44 up to and including the “canted or angled” extremity 82. This construction is consistent with the specification in the current application which states that the “latch bolt 46 has a nose 47 adapted for engaging a respective one of the guide rails 16.” (p. 10, lines 27-28). The specification further defines the nose: “[a]s shown in FIG. 26, the entire nose of the latch bolt 46 is extended past the outward end opening 44 of the housing 42 by the spring (not shown). In this fully extended position, the nose 47 is completely extended past the housing 42 a distance D1.” (p. 22, lines 23-26). The specification goes on to state that FIGS. 27 and 29 depict an embodiment “when the latch bolt 46 is fully extended out of the housing 42, only a portion of the latch bolt nose 47 extends out of the housing while a portion of the nose 47 remains within the housing 42. In this position, the nose 47 extends past the outward end opening 44 a distance D2, while a portion of the nose 47 remains within the housing 42.” (p. 23, lines 5-9). In sum, the nose 47 is clearly defined in the specification as “the segment of the latch bolt 46 that extends past the outward end opening 44 of the housing when the latch bolt 46 is fully extended and has a beveled surface (FIG. 26).” (p. 23, lines 17-19).

Therefore, the “nose” of the latch bolt is the portion of the latch bolt having a beveled surface. In Simpson, the corresponding structure of the latch bolt 44 having a beveled surface is the extremity 82 which is “canted or beveled.” As can be clearly seen in FIG. 3 and 4 of Simpson, the extremity 82 cannot enter the housing 42 even when the latch bolt 44 is fully retracted. This is because the cylindrical boss formation 66 is received in the ovate slot 83, and

thus can travel only the length of the slot 83. In FIGS. 3 and 4 of Simpson, when the latch bolt 44 is fully retracted, the boss 66 abuts the outer most end of slot 83 preventing the bolt 44 from further entering the housing 42. Thus, even in this fully retracted position, the entirety of the beveled surface of the latch bolt 44 (i.e. the extremity 82) is outboard of the housing 42. In the extended position, thus, all of the beveled surface of the latch bolt 44 in Simpson, and therefore the entire nose 82 of the latch bolt 44, is outboard of the housing 42. Therefore, Simpson does not disclose or suggest a tilt-latch such that when the latch bolt is fully extended only a portion of the nose extends past the outward end opening of the housing. Accordingly, Simpson fails to disclose or suggest all elements of independent claim 1.

As separate and independent grounds, independent claim 1 further requires, among other things, a latch bolt having a post extending from the latch bolt. Simpson discloses a post 106 extending from a control member 48. However, as is clearly seen in FIGS. 3 and 4, the latch bolt 42 in Simpson does not comprise a post. Accordingly, Simpson fails to disclose or suggest all elements of independent claim 1. Consequently, claim 1 is patentably distinct and is neither anticipated by nor suggested by Simpson.

Claims 2 - 5 depend from claim 1 and thereby require all of the limitations of claim 1. For the reasons stated above with respect to claim 1, these claims are patentably distinct and are neither anticipated by nor suggested by Simpson.

Independent claim 6 requires, among other things, that "a portion of the nose is disposed within the housing when latch bolt is in the extended position." As stated above, the "nose" of the latch bolt must be the portion having a beveled surface. In Simpson, the corresponding structure of the latch bolt 44 having a beveled surface is the extremity 82 which is "canted or beveled." FIGS. 3 and 4 of Simpson depict the latch bolt 44 in the extended position. In FIGS. 3 and 4 of Simpson, none of the extremity 82 is disposed within the housing 42 when the latch bolt 44 is fully extended. Therefore, Simpson does not disclose or suggest a tilt-latch such that when the latch bolt is fully extended a portion of the nose is positioned within the housing. Accordingly, Simpson fails to disclose or suggest all elements of independent claim 6.

As separate and independent grounds, independent claim 6 further requires, among other things, a latch bolt having a post extending from the latch bolt. Simpson discloses a post 106 extending from a control member 48. However, as is clearly seen in FIGS. 3 and 4, the latch bolt 42 in Simpson does not comprise a post. Accordingly, Simpson fails to disclose or suggest all elements of independent claim 1. Consequently, claim 1 is patentably distinct and is neither anticipated by nor suggested by Simpson.

Claims 7 - 10 depend from claim 6 and thereby require all of the limitations of claim 6. For the reasons stated above with respect to claim 6, these claims are patentably distinct and are neither anticipated by nor suggested by Simpson.

Independent claim 32 requires, among other things, that "when the latch bolt is fully extended through the outward end opening, a portion of the nose is positioned within the housing." As stated above, the "nose" of the latch bolt must be the portion having a beveled surface. As explained with respect to independent claim 6, Simpson discloses a latch bolt 44 where the beveled portion 82 is entirely outboard of the housing 42 when the latch bolt 44 is fully extended. Therefore, Simpson does not disclose or suggest a tilt-latch such that when the latch bolt is fully extended a portion of the nose is positioned within the housing. Accordingly, Simpson fails to disclose or suggest all elements of independent claim 32.

ADDED CLAIMS

Applicant has added claims 33 - 35 and submits that adequate support for these claims can be found in the written description and the Figures. Applicant respectfully submits that the added claims are in a condition for allowance.

CONCLUSION

In view of the foregoing, Applicant believes the Application is in a condition for allowance, and respectfully requests early notice of the same. Applicant requests that the Examiner call the undersigned attorney if the Examiner has any questions concerning this Reply, or if it will expedite the progress of this Application.

Respectfully submitted,

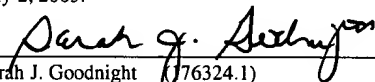
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